

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NORMAN L. NICHOLS, JR.

*

Plaintiff

*

v.

*

CIVIL NO. JFM-02-3523

CAROLINE COUNTY BOARD
OF EDUCATION

*

*

Defendant

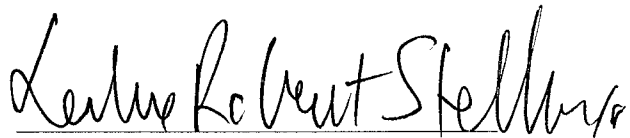
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DEFENDANT'S BILL OF COSTS

The Board of Education of Caroline County, Defendant, by its undersigned counsel Leslie R. Stellman, Steven B. Schwartzman, and Hodes, Ulman, Pessin & Katz, P.A., and pursuant to Local Rule 109, hereby requests, as more fully supported in the accompanying Memorandum of Law, that Plaintiff be ordered to pay the Defendant all recoverable costs incurred by it in this action.

Respectfully submitted,



Leslie Robert Stellman

Federal Bar No. 01673

Steven B. Schwartzman

Federal Bar No. 04686

Hodes, Ulman, Pessin & Katz, P.A.

901 Dulaney Valley Road

4th Floor

Towson, Maryland 21204

410-938-8800

410-938-8909

**ATTORNEYS FOR THE DEFENDANT BOARD OF
EDUCATION OF CAROLINE COUNTY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February 2004, a copy of the foregoing Bill of Costs was filed electronically, faxed and mailed via first class mail, postage pre-paid, to Frederick P. Charleston, 2530 North Charles Street, Suite 201, Baltimore, MD 21218, Attorney for Plaintiff



Steven B. Schwartzman

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NORMAN L. NICHOLS, JR.

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Plaintiff

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v.

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CIVIL NO. JFM-02-3523

CAROLINE COUNTY BOARD
OF EDUCATION

*

*

Defendant

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* * * * *

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S BILL OF COSTS

Defendant Board of Education of Caroline County, by its undersigned counsel Leslie Robert Stellman, Steven B. Schwartzman, and Hodes, Ulman, Pessin & Katz, P.A., pursuant to Local Rule 109(1), submits this Memorandum of Law in support of its Bill of Costs and states:

1. That pursuant to Rule 54 of the Federal Rules of Civil Procedure, Defendant, as a prevailing party, shall be allowed to recover costs incurred by it in the course of this action.

2. That pursuant to Section 1920 of Title 28 of the United States Code, the Court may tax against the Plaintiff the following costs:

(1) Fees of the Clerk;

(2) Fees of a court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;

(3) Fees and disbursements for printing and witnesses;

(4) Fees for exemplification and copies of papers necessarily obtained for use in the case;

(5) Docket fees; and

(6) Compensation of court appointed experts and interpreters.

3. That there is a presumption that costs are to be awarded to the prevailing party. See Cherry v. Champion Int'l Corp., 186 F.3d 442, 446 (4th Cir. 1999) (“By mandating that, subject to court intervention, costs be allowed to a prevailing party ‘as of course,’ the rule creates the presumption that costs are to be awarded to the prevailing party.”)

4. That Defendant incurred the following costs:

COST SCHEDULE

Transcript Charges for Depositions

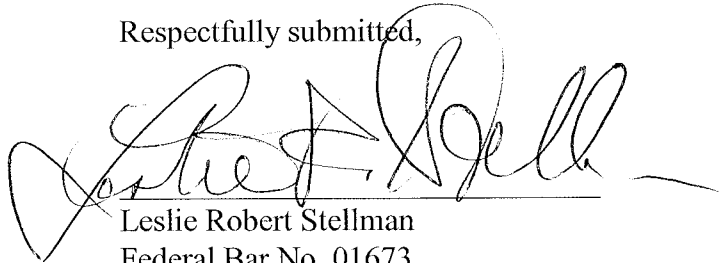
a.	Art Miller & Assoc., Inc. (Deposition of Norman L. Nichols)	Invoice No. 7795	\$751.40
b.	Art Miller & Assoc., Inc. (Deposition of Janet Fountain)	Invoice No. 9535	\$495.12
c.	Art Miller & Assoc., Inc. (Deposition of Larry Lorton, Ph.D)	Invoice No. 9430	\$508.50
d.	Art Miller & Assoc., Inc. (Deposition of Robert Eugene Smith)	Invoice No. 9428	\$248.55
SUBTOTAL:			\$2,003.57

5. That courts have consistently awarded employers costs for deposition transcripts. See Cherry, 186 F.3d at 449 (awarding employer approximately \$2,300.00 in transcription costs); EEOC v. W & O Inc., 213 F.3d 600, 620, 623-24 (11th Cir. 2000) (noting that deposition costs may be awarded to prevailing parties under § 1920(2)); Cengr v. Fusibond Piping Systems, 135 F.3d 445, 453-54 (7th Cir. 1998) (finding that deposition costs are authorized under § 1920(2) as stenographic transcripts and awarding employer approximately \$2,000.00 for deposition costs).

6. That these costs are supported by the attached affidavit and the attached invoices. (See copy of Affidavit attached hereto as **Exhibit 1**, and invoices attached hereto as **Exhibits 2 -5**).

WHEREFORE, Defendant respectfully requests that the Plaintiff be ordered to reimburse Defendant the amount of **\$2,003.57** for costs incurred in this action.

Respectfully submitted,



Leslie Robert Stellman
Federal Bar No. 01673
Steven B. Schwartzman
Federal Bar No. 04686
Hodes, Ulman, Pessin & Katz, P.A.
901 Dulaney Valley Road
4th Floor
Towson, Maryland 21204
410-938-8800
410-938-8909

**ATTORNEYS FOR THE DEFENDANT BOARD OF
EDUCATION OF HARFORD COUNTY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of February 2004, a copy of the foregoing Memorandum of Law In Support of Defendant's Bill of Costs filed electronically, faxed and mailed via first class mail, postage pre-paid, to Frederick P. Charleston, 2530 North Charles Street, Suite 201, Baltimore, MD 21218, Attorney for Plaintiff.



Steven B. Schwartzman

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NORMAN L. NICHOLS, JR.

*

Plaintiff

*

v.

*

CIVIL NO. JFM-02-3523

CAROLINE COUNTY BOARD
OF EDUCATION

*

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Defendant

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AFFIDAVIT IN SUPPORT OF DEFENDANT'S BILL OF COSTS

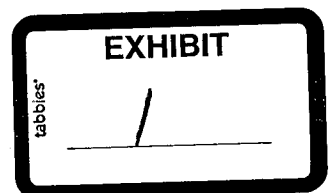
I, Steven B. Schwartzman, Esq., being over the age of 18 and competent to testify, state as follows:

1. I have served as counsel to the Defendant in the above-captioned case, and in that capacity I am personally familiar with the costs incurred in defending this lawsuit.

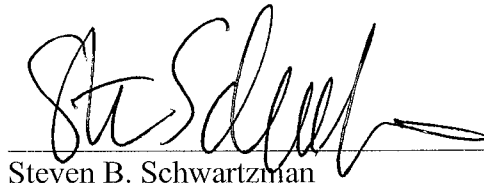
2. The costs stated in the supporting Memorandum of Law are correct and have been necessarily incurred in this cause of action.

3. The services for which fees have been charged were actually and necessarily performed.

4. The invoices and/or other documents reflecting the charges incurred by the Defendant for the various costs associated with the defense of the instant lawsuit that are attached to the Memorandum of Law are true and accurate summaries of the expenses and costs incurred by this office on behalf of Defendant in defending Plaintiff's suit for damages as a result of the extensive documents and pleadings required in this case.



I HEREBY AFFIRM that the foregoing Affidavit is true and accurate to the best of my knowledge, information, and belief, as are the enumerated costs identified in the accompanying invoices and other documents. Sworn this 25th day of February, 2004.

A handwritten signature in black ink, appearing to read "Steve Schwartzman", written over a horizontal line.

Steven B. Schwartzman
Federal Bar No. 04686
Hodes, Ulman, Pessin & Katz, P.A.
901 Dulaney Valley Road
4th Floor
Towson, Maryland 21204
410-938-8800
410-938-8909

**ATTORNEY FOR THE DEFENDANT BOARD OF
EDUCATION OF CAROLINE COUNTY**



Art Miller
 & ASSOCIATES, INC.
 COURT REPORTERS AND VIDEOGRAPHERS
 reporting@artmiller.com • www.artmiller.com
 P.O. Box 5337 • Baltimore, MD 21209

LESLIE ROBERT STELLMAN, ESQUIRE
 HODES, ULMAN, PESSIN & KATZ, P.A.
 901 DULANEY VALLEY ROAD
 SUITE 400
 TOWSON, MD 21204-2600

STATEMENT

ACCOUNT NUMBER	DATE
HODETO02	08/01/2003

CURRENT	30 DAYS	60 DAYS
751.40	.00	.00
90 DAYS	120 DAYS & OVER	TOTAL DUE
.00	.00	751.40
PAGE 1 OF 1		

07/07/2003 7795 751.40 06/10/2003 NORMAN NICHOLS NICHOLS VS CAROLINE COUNTY BD

52-1694968

Please detach bottom portion and return with payment.

CLIENT

LESLIE ROBERT STELLMAN, ESQUIRE
 HODES, ULMAN, PESSIN & KATZ, P.A.
 901 DULANEY VALLEY ROAD
 SUITE 400
 TOWSON, MD 21204-2600

PLEASE REMIT PAYMENT TO:

Remit To: **Art Miller & Associates**
 P.O. Box 5337
 Baltimore, MD 21209

Account No.: HODETO02
 Date : 08/01/2003
TOTAL DUE : 751.40

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EXHIBIT

BY RECEIVING THE TRANSCRIPT AND/OR COURT REPORTING SERVICES SO IDENTIFIED, THE ATTORNEY/LAWFIRM INVOICED ABOVE ACCEPTS JOINT AND SEVERABLE LIABILITY FOR ITS PAYMENT OF THE INVOICE. TERMS: NET 15 DAYS. PAST DUE ACCOUNTS WILL BE CHARGED 1.5 PERCENT PER MONTH INVOICED.

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SUITE 400
TOWSON, MD 21204

INVOICE NO.	INVOICE DATE	DEPOSITION NO.
9535	10/23/2003	01-7214
DEPOSITION DATE	COURT REPORTER	
09/29/2003	SAUTLE	
CASE NAME		
NICHOLS VS. CAROLINE COUNTY		
TERMS		
Due upon receipt		

1 CERTIFIED COPY OF TRANSCRIPT OF:
JANET FOUNTAIN-169 PAGES
SHIPPING & HANDLING

482.90
12.22

TOTAL DUE >>>> 495.12

EXPEDITED DELIVERY

52-1694968

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HODES, ULMAN, PESSIN & KATZ
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SUITE 400
TOWSON, MD 21204

PLEASE REMIT PAYMENT TO:

Remit To: Art Miller & Associates
P.O. Box 5337
Baltimore, MD 21209

Invoice No.: 9535
Date : 10/23/2003
TOTAL DUE : 495.12

Job No. : 01-7214
Case No. :
NICHOLS VS. CAROLINE COUNTY

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SUITE 400
TOWSON, MD 21204

INVOICE NO. 9430	INVOICE DATE 10/20/2003	DEPOSITION NO. 01-7077
DEPOSITION DATE 09/16/2003	COURT REPORTER SAUTLE	
CASE NAME NICHOLS VS. CAROLINE COUNTY		
TERMS Due upon receipt		

1 CERTIFIED COPY OF TRANSCRIPT OF:
LARRY LORTON, PH.D. -212 PAGES
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498.20
10.30

TOTAL DUE >>>> 508.50

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CLIENT

STEVEN SCHWARTZMAN, ESQUIRE
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TOWSON, MD 21204

PLEASE REMIT PAYMENT TO:

Remit To: **Art Miller & Associates**
P.O. Box 5337
Baltimore, MD 21209

Invoice No.: 9430
Date : 10/20/2003
TOTAL DUE : 508.50

Job No. : 01-7077
Case No. :
NICHOLS VS. CAROLINE COUNTY

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TERMS: NET 15 DAYS. PAST DUE ACCOUNTS WILL BE CHARGED 1.5 PERCENT PER MONTH

Tax ID No. 52-1694968



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STEVEN SCHWARTZMAN, ESQUIRE
HODES, ULMAN, PESSIN & KATZ
901 DULANEY VALLEY ROAD
SUITE 400
TOWSON, MD 21204

INVOICE NO. 9428	INVOICE DATE 10/20/2003	DEPOSITION NO. 01-7214
DEPOSITION DATE 09/29/2003	COURT REPORTER SAUTLE	
CASE NAME NICHOLS VS. CAROLINE COUNTY		
TERMS Due upon receipt		

1 CERTIFIED COPY OF TRANSCRIPT OF:
ROBERT EUGENE SMITH - 99 PAGES
SHIPPING & HANDLING

239.60
8.95

TOTAL DUE >>>> 248.55

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CLIENT

STEVEN SCHWARTZMAN, ESQUIRE
HODES, ULMAN, PESSIN & KATZ
901 DULANEY VALLEY ROAD
SUITE 400
TOWSON, MD 21204

PLEASE REMIT PAYMENT TO:

Remit To: **Art Miller & Associates**
P.O. Box 5337
Baltimore, MD 21209

Invoice No.: 9428
Date : 10/20/2003
TOTAL DUE : 248.55

Job No. : 01-7214
Case No. :
NICHOLS VS. CAROLINE COUNTY

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EXHIBIT

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

Plaintiff(s)**BILL OF COSTS**

NORMAN L. NICHOLS

vs.Case Number JFM 02 3523

CAROLINE COUNTY BOARD OF EDUCATION

Defendant(s)

Judgment having been entered in the above entitled action on 2/23/04 against
NORMAN L. NICHOLS, the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$	_____
Fees for service of summons and subpoena	\$	_____
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	\$	<u>\$2,003.57 (see attache</u>
Fees and disbursements for printing	\$	<u>motion)</u>
Fees for witnesses (itemize on reverse side)	\$	_____
Fees for exemplification and copies of papers necessarily obtained for use in this case	\$	_____
Docket fees under 28 U.S.C. 1923	\$	_____
Costs as shown on Mandate of Court of Appeals	\$	_____
Compensation of court-appointed experts	\$	_____
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	\$	_____
Other costs (please itemize)	\$	_____
TOTAL		\$ <u>\$2,003.57</u>

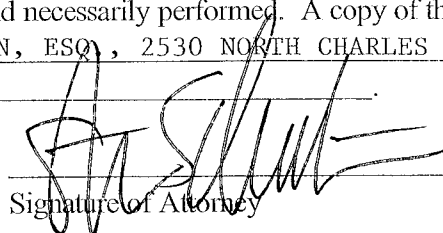
SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to: FREDERICK P. CHARLESTON, ESQ., 2530 NORTH CHARLES STREET, SUITE 201, BALTIMORE, MARYLAND 21218.

STEVEN B. SCHWARTZMAN

Print Name of Attorney



Signature of Attorney

Date

CAROLINE COUNTY BOARD OF EDUCATION

Print Name of Claiming Party

Costs are taxed in the amount of \$ _____ and included in the judgment.

Felicia C. Cannon, Clerk

By: _____